

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YOEL WEISSHAUS,

Plaintiff,

11 Civ. 6616 (RKE)

-against-

ORDER

PORT AUTHORITY OF NEW YORK
AND NEW JERSEY,

Defendant.

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ORDER

The Court has received the Port Authority's responses to its orders dated September 17, 2021 (ECF No. 133), and October 7, 2021 (ECF No. 135). *See* ECF Nos. 134, 136, 139. In its submission dated October 19, 2021 (ECF No. 139), the Port Authority defined tolls as "fees which are imposed by the Port Authority's Tunnels Bridges and Terminals Department for use by the general public of its bridges and tunnels, and which are reported as operating revenues in the Port Authority's annual financial statement." The Port Authority noted that Mr. Weisshaus wanted the definition of "tolls" to include "violation penalties and fees." *See* ECF No. 139.

The legal question underlying Plaintiff's sole remaining claim is whether the imposition of the 2011 toll increase placed an unlawful burden on interstate commerce. Since violation penalties and fees based on the failure to pay tolls flow directly from the imposition of tolls, including tolls set by the 2011 increase, the Court shall, for purposes of this case, include violation penalties and fees in the definition of "tolls" when measuring toll revenues collected at ITN facilities.

In addition, the Court understands from the Port Authority's response dated October 4,

2021 (ECF No. 134), that the “allocated expenses” included as part of “operating expenses” for the ITN “contain expenses allocated to non-ITN facilities.” Accordingly, it is hereby

ORDERED that “tolls” shall be defined as including fees which are imposed by the Port Authority’s Tunnels Bridges and Terminals Department for use by the general public of its bridges and tunnels, along with violation penalties and fees that are included in the operating revenues reported in the Port Authority’s annual financial statements; and it is further

ORDERED that, by November 8, 2021, the Port Authority shall provide Plaintiff with gross amounts for operating expenses, less any allocated expenses that are connected with non-ITN facilities, recorded by fiscal year from 2007-2020 for each ITN facility in spreadsheet (.pdf or .xlsx) form.

/s/ Richard K. Eaton

Richard K. Eaton
U.S.D.J., by Designation

Dated: October 20, 2021
New York, New York